

disqualified from exemption under §§ 541.100, 541.200, 541.300 or 541.400 on the basis that such employee is paid according to a pay system established by statute, ordinance or regulation, or by a policy or practice established pursuant to principles of public accountability, under which the employee accrues personal leave and sick leave and which requires the public agency employee's pay to be reduced or such employee to be placed on leave without pay for absences for personal reasons or because of illness or injury of less than one work-day when accrued leave is not used by an employee because:

(1) Permission for its use has not been sought or has been sought and denied;

(2) Accrued leave has been exhausted; or

(3) The employee chooses to use leave without pay.

(b) Deductions from the pay of an employee of a public agency for absences due to a budget-required furlough shall not disqualify the employee from being paid on a salary basis except in the workweek in which the furlough occurs and for which the employee's pay is accordingly reduced.

PART 547—REQUIREMENTS OF A “BONA FIDE THRIFT OR SAVINGS PLAN”

Sec.

547.0 Scope and effect of part.

547.1 Essential requirements for qualifications.

547.2 Disqualifying provisions.

AUTHORITY: Sec. 7, 52 Stat. 1063, as amended; 29 U.S.C. 207.

SOURCE: 19 FR 4864, Aug. 3, 1954, unless otherwise noted.

§ 547.0 Scope and effect of part.

(a) The regulations in this part set forth the requirements of a “bona fide thrift or savings plan” under section 7(e)(3)(b) of the Fair Labor Standards Act of 1938, as amended (hereinafter called the Act). In determining the total remuneration for employment which section 7(e) of the Act requires to be included in the regular rate at which an employee is employed, it is not necessary to include any sums paid to or on behalf of such employee, in

recognition of services performed by him during a given period, which are paid pursuant to a bona fide thrift or savings plan meeting the requirements set forth herein. In the formulation of these regulations due regard has been given to the factors and standards set forth in section 7(e)(3)(b) of the Act.

(b) Where a thrift or savings plan is combined in a single program (whether in one or more documents) with a plan or trust for providing profit-sharing payments to employees, or with a plan or trust for providing old age, retirement, life, accident or health insurance or similar benefits for employees, contributions made by the employer pursuant to such thrift or savings plan may be excluded from the regular rate if the plan meets the requirements of the regulation in this part and the contributions made for the other purposes may be excluded from the regular rate if they meet the tests set forth in regulations. Part 549, or the tests set forth in Interpretative Bulletin, part 778 of this chapter, §§ 778.214 and 778.215, as the case may be.

§ 547.1 Essential requirements for qualifications.

(a) A “bona fide thrift or savings plan” for the purpose of section 7(e)(3)(b) of the Act is required to meet all the standards set forth in paragraphs (b) through (f) of this section and must not contain the disqualifying provisions set forth in § 547.2.

(b) The thrift or savings plan constitutes a definite program or arrangement in writing, adopted by the employer or by contract as a result of collective bargaining and communicated or made available to the employees, which is established and maintained, in good faith, for the purpose of encouraging voluntary thrift or savings by employees by providing an incentive to employees to accumulate regularly and retain cash savings for a reasonable period of time or to save through the regular purchase of public or private securities.

(c) The plan specifically shall set forth the category or categories of employees participating and the basis of their eligibility. Eligibility may not be based on such factors as hours of work,